

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 03 OF 04 ROME 000395

SIPDIS

FROM U.S. MISSION IN ROME

SENSITIVE

STATE FOR EB HANS KLEMM AND IO/EDA KOTOK
STATE PLEASE PASS TO US TRADE REPRESENTATIVE
USAID FOR D/DCHA/FFP LANDIS AND GLOBAL JLEWIS
USDA/FAS FOR MCHAMBLISS/RTILSWORTH
USUN NEW YORK FOR CSERWER

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PAGE 02 ROME 00395 03 OF 04 010832Z

USTR FOR RICHARD WHITE
BRUSSELS FOR USAID PLERNER
NSC FOR JDWORKEN
E.O. 12958: N/A

TAGS: [EALD](#) [EAGR](#) [AORC](#) [PREF](#) [EAGR](#) [AORC](#) [PREF](#) [EAGR](#) [AORC](#) [PREF](#) [EAGR](#) [AORC](#) [PREF](#) [EAGR](#) [AORC](#) [PREF](#) [EU](#) [WFP](#) [UN](#) [EUEAID](#) [WFP](#) [UN](#) [EUEAID](#) [WFP](#) [UN](#) [EUEAID](#) [WFP](#) [UN](#) [EUEA](#)
SUBJECT: WTO VIEWS ON BIOTECH ENGINEERED FOOD AID

WITH RESPECT TO OPTION 1, (TO CONTINUE WFP POLICY OF ALLOWING EACH COUNTRY TO DECIDE WHETHER OR NOT IT WISHES TO ACCEPT BIOTECH FOOD) AS INDICATED ABOVE, THERE ARE NO WTO DISPUTE SETTLEMENT RULINGS NOR IS THERE A CONSENSUS AMONG MEMBERS REGARDING HOW THE WTO AGREEMENTS APPLY TO TRADE IN GM/BIOTECH FOODS. FURTHERMORE, WHILE WE ASSUME THAT WFP WOULD UNDERSTANDABLY WISH TO AVOID ANY POLICY WHICH MIGHT ENCOURAGE WTO MEMBERS TO VIOLATE THEIR OBLIGATIONS UNDER WTO AGREEMENTS, WE CAN GIVE YOU NO GUIDANCE AT THIS TIME AS TO HOW FUTURE WTO PANELS MIGHT RULE ON THIS MATTER. CONSEQUENTLY, A CONTINUATION OF THE CURRENT WFP POLICY WHEREBY EACH COUNTRY DETERMINES WHETHER OR NOT IT WISHES TO ACCEPT GM/BIOTECH FOODS, MAY OR MAY NOT HAVE WTO IMPLICATIONS IN THE FUTURE, BUT THAT IS NO DIFFERENT THAT THE CURRENT SITUATION.

WITH RESPECT TO OPTION 2, (WFP INSTITUTES A PRIOR INFORMED CONSENT PROCEDURE OF SOME TYPE AND LABELS ALL FOOD DONATED IN KIND OR PURCHASED WHICH MAY BE GM/BIOTECH) THE ISSUE OF LABELING OF GM/BIOTECH FOODS IS THE SUBJECT OF ON-GOING DISCUSSIONS AND SUBSTANTIAL DISAGREEMENTS AMONG WTO MEMBERS. IT MAY WELL BE THAT WFP EFFORTS TO DEVELOP LABELING REQUIREMENTS AND A PRIOR INFORMED CONSENT PROCEDURE WOULD GIVE RISE TO SIMILAR DISAGREEMENTS AMONG ITS MEMBERS.

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PAGE 03 ROME 00395 03 OF 04 010832Z

AS FOR OPTION 3, (NOTE: WHERE WFP WOULD IMPOSE THE PROVISIONS OF THE CARTAGENA PROTOCOL WITH IMMEDIATE EFFECT ON ALL ITS FOOD AID OPERATIONS - END NOTE), THE CARTAGENA PROTOCOL MAY ENTER INTO FORCE DURING 2003 AND WORK AIMED AT THE DEVELOPMENT OF SPECIFIC PROCEDURES WITH REGARD TO THE IDENTIFICATION OF POTENTIAL GM CONTENT IN SHIPMENTS OF FOOD, FEED AND PROCESSES FOOD PRODUCTS HAS BEEN INITIATED. ACCORDING TO ARTICLE 18.2(A) OF THE PROTOCOL, THE PARTIES WILL HAVE UP TO TWO YEARS AFTER THE ENTRY INTO FORCE OF THE PROTOCOL TO DEVELOP SUCH PROCEDURES. WE ARE NOT IN A POSITION TO PREDICT HOW LONG IT MAY TAKE FOR SUCH DETAILED PROCEDURES TO BE DEVELOPED AND TO BECOME OPERATIONAL. IF, UNDER OPTION 3, THE WFP WERE TO DEVELOP SOMETHING OTHER THAN THE FINAL SPECIFIC PROCEDURES DEVELOPED BY THE CARTAGENA PROTOCOL, IT COULD CREATE CONSIDERABLE CONFUSION AND POTENTIAL DUPLICATION OF MEASURES. FURTHERMORE, IT IS CONCEIVABLE THAT AN IMPORTING COUNTRY, ALTHOUGH A SIGNATORY TO THE CARTAGENA PROTOCOL, MIGHT CHOOSE NOT TO APPLY ITS PROVISIONS FULLY WHEN FACED WITH AN URGENT NEED FOR FOOD AID. FINALLY, THE PROBLEM OF FOOD AID TRANSACTIONS BETWEEN A NON-SIGNATORY AND SIGNATORY COUNTRY WOULD STILL ARISE.

TO SUMMARIZE, I BELIEVE THAT A CONTINUATION OF THE CURRENT WFP POLICY WOULD NOT CHANGE THE CURRENT SITUATION WITH RESPECT TO THE POSSIBLE IMPLICATIONS FOR WTO MEMBERS' OBLIGATIONS WITH RESPECT TO TRADE IN GM/BIOTECH FOODS AND WOULD ALSO SEEM TO BE THE MOST PRAGMATIC OPTION FOR THE FORESEEABLE FUTURE.

LET ME REITERATE MY APPRECIATION AT BEING CONSULTED
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PAGE 04 ROME 00395 03 OF 04 010832Z

REGARDING THIS MATTER. TRADE IN GM/BIOTECH PRODUCTS IS INCREASINGLY CONTROVERSIAL AND SENSITIVE. CONSULTATIONS AND CAREFUL COOPERATION AMONG ALL INTERNATIONAL ORGANIZATIONS INVOLVED IN THIS MATTER COULD HELP AVOID POTENTIAL CONFLICTS WHICH MAY HAVE SERIOUS CONSEQUENCES FOR THE MOST DISADVANTAGED PEOPLES OF THE WORLD. WITH MY BEST REGARDS, (SIGNED) DR. SUPACHAI PANITCHPAKDI. END TEXT OF WTO LETTER.

COMMENT

13. (SBU) CLEARLY WTO AGREES WITH WFP'S PRESENT POSITION OF ESSENTIALLY ACTING AS A BROKER IN FOOD AID SHIPMENTS, WHERE THE POLICIES OF THE GOVERNMENTS INVOLVED PREVAILS; AND WHERE WFP OPERATES ON THE ASSUMPTION THAT GOVERNMENTS EXERCISE DUE DILIGENCE IN SETTING NATIONAL REGULATIONS WITH REGARD TO EXPORTS AND IMPORTS OF FOOD. THE EC HAS A DIFFERENT VIEW WHEREBY WFP SHOULD SERVE AS A "STALKING HORSE" AS A "FRONT-

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PAGE 01 ROME 00395 04 OF 04 010832Z

ACTION EB-00

INFO	LOG-00	AGRE-00	AID-00	EAP-00	EUR-00	UTED-00	TEDE-00
	IO-00	OIC-02	STR-00	TEST-00	PRM-00	SAS-00	/002W
				-----2F6145 010832Z /25			

P 311616Z JAN 03
FM AMEMBASSY ROME
TO SECSTATE WASHDC PRIORITY 7942
INFO EU MEMBER STATES COLLECTIVE
AMEMBASSY OTTAWA
AMEMBASSY BERN
USDA FAS WASHDC 2488
USEU BRUSSELS 3092
USMISSION GENEVA

USMISSION USUN NEW YORK
AMEMBASSY TOKYO

UNCLAS SECTION 04 OF 04 ROME 000395

SIPDIS

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SENSITIVE

STATE FOR EB HANS KLEMM AND IO/EDA KOTOK
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PAGE 02 ROME 00395 04 OF 04 010832Z

USTR FOR RICHARD WHITE
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E.O. 12958: N/A

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SUBJECT: WTO VIEWS ON BIOTECH ENGINEERED FOOD AID

LINE ENFORCER" OF THE CARTAGENA PROTOCOL. IT IS INTERESTING
THAT WTO NOTES THAT THE PROTOCOL WHEN RATIFIED (WHICH
CURRENTLY HAS 41 SIGNERS AND NEEDS 50 TO GO INTO EFFECT),
RECOGNIZES THAT THE PARTIES WILL HAVE UP TO TWO YEARS AFTER
THE ENTRY INTO FORCE OF THE PROTOCOL TO DEVELOP SPECIFIC
PROCEDURES WITH REGARD TO THE IDENTIFICATION OF POTENTIAL GM
CONTENT IN SHIPMENTS OF FOOD, FEED AND PROCESSES FOOD
PRODUCTS. US MISSION STRONGLY SUPPORTS WTO'S "QUIET ADVICE"
THAT WFP STICK WITH ITS PRESENT GM-FOOD AID POLICY. HALL

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PAGE 01 ROME 00395 01 OF 04 010828Z
ACTION EB-00

INFO	LOG-00	AGRE-00	AID-00	EAP-00	EUR-00	UTED-00	TEDE-00
	IO-00	OIC-02	STR-00	TEST-00	PRM-00	SAS-00	/002W
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P 311616Z JAN 03
FM AMEMBASSY ROME
TO SECSTATE WASHDC PRIORITY 7939
INFO EU MEMBER STATES COLLECTIVE
AMEMBASSY OTTAWA
AMEMBASSY BERN
USDA FAS WASHDC 2485
USEU BRUSSELS 3089
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UNCLAS SECTION 01 OF 04 ROME 000395

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PAGE 02 ROME 00395 01 OF 04 010828Z

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SUBJECT: WTO VIEWS ON BIOTECH ENGINEERED FOOD AID

REF: (02) ROME 5226

SENSITIVE BUT UNCLASSIFIED - PLEASE PROTECT ACCORDINGLY.
1. (SBU) SUMMARY. MISSION HAS BEEN PROVIDED A COPY OF
CORRESPONDENCE BETWEEN THE EXECUTIVE DIRECTOR OF THE UN
WORLD FOOD PROGRAM (WFP) AND WORLD TRADE ORGANIZATION (WTO)
DIRECTOR GENERAL PANITCHPAKDI IN WHICH PANITCHPAKDI IS ASKED
TO PROVIDE VIEWS ON THE HOW WFP SHOULD HANDLE BIOTECH
ENGINEERED FOOD AID. PANITCHPAKDI CONCLUDES THAT
CONTINUATION OF THE CURRENT WFP POLICY (ALLOWING EACH
COUNTRY TO DECIDE WHETHER OR NOT TO ACCEPT BIOTECH FOOD) IS
THE MOST "PRAGMATIC" OPTION. PANITCHPAKDI DOES NOT SUPPORT
THE RECOMMENDATION OF CERTAIN EU WFP EXECUTIVE BOARD MEMBERS
(REFTEL) THAT WFP IMPLEMENT "ADVANCE INFORMED AGREEMENT"
PRIOR TO ENTRY INTO FORCE OF THE CARTAGENA PROTOCOL. US
MISSION STRONGLY SUPPORTS WTO'S "QUIET ADVICE" THAT WFP
STICK WITH ITS PRESENT GM-FOOD AID POLICY. END SUMMARY.

FULL TEXT OF LETTER FROM WORLD TRADE ORGANIZATION (WTO)
DIRECTOR GENERAL PANITCHPAKDI TO WFP EXECUTIVE DIRECTOR
MORRIS DATED JANUARY 23, 2003

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PAGE 03 ROME 00395 01 OF 04 010828Z
12. (SBU) BEGIN TEXT:

THANK YOU FOR YOUR LETTER OF 14 JANUARY SEEKING THE ADVICE
OF THE WTO REGARDING HOW WFP SHOULD HANDLE DONATIONS OF
GM/BIOTECH FOODS. I APPRECIATE YOUR INTEREST IN OUR VIEWS
ON THIS HIGHLY SENSITIVE MATTER.

THE WTO HAS NO AGREEMENTS EXPLICITLY RELATING TO TRADE IN
GM/BIOTECH FOODS, NOR HAVE THERE BEEN ANY FORMAL LEGAL
INTERPRETATIONS OR DECISIONS REGARDING THE APPLICATION OF
WTO AGREEMENTS TO SUCH TRADE. FURTHERMORE, ALTHOUGH THERE
HAS BEEN SOME DISCUSSION REGARDING RESTRICTIONS ON THE TRADE
IN GM/BIOTECH FOODS, NO MEETINGS HAVE BEEN HELD UNDER THE
AUSPICES OF THE WTO TO DISCUSS THIS MATTER. THEREFORE, MY

RESPONSE TO YOU IS SOLELY AS THE HEAD OF THE WTO
SECRETARIAT, AND DOES NOT NECESSARILY REFLECT THE VIEWS OF

SIPDIS
OUR MEMBER GOVERNMENTS.

THERE ARE SEVERAL WTO AGREEMENTS WHICH MAY HAVE SOME
RELEVANCE FOR TRADE IN GM/BIOTECH FOODS, IN PARTICULAR THE
AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY
MEASURES (THE "SPS AGREEMENT"), THE AGREEMENT ON TECHNICAL
BARRIERS TO TRADE (THE "TBT AGREEMENT"), AND THE GENERAL
AGREEMENT ON TARIFFS AND TRADE 1994 (THE "GATT"). THE
AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY
RIGHTS (THE "TRIPS AGREEMENT") MAY APPLY TO THE ISSUE OF
PATENT PROTECTION FOR GM/BIOTECH PRODUCTS, BUT IS PROBABLY
NOT RELEVANT WITH REGARD TO FOOD AID.

THE SPS AGREEMENT RECOGNIZES THE RIGHT OF ANY WTO MEMBER
GOVERNMENT TO RESTRICT TRADE WHEN NECESSARY TO ENSURE THE
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PAGE 04 ROME 00395 01 OF 04 010828Z
PROTECTION OF HEALTH, SUBJECT TO CERTAIN CONDITIONS. THIS
AGREEMENT SPECIFICALLY ADDRESSES THE PROTECTION OF HUMAN AND
ANIMAL HEALTH FROM RISKS "ARISING FROM ADDITIVES,
CONTAMINANTS, TOXINS OR DISEASE-CAUSING ORGANISMS" IN FOODS,
BEVERAGES OR FEEDSTUFFS; THE PROTECTION OF PLANT AND ANIMAL
HEALTH FROM PESTS OR DISEASES; AND THE PROTECTION OF THE
TERRITORY OF A COUNTRY FROM THE ENTRY, ESTABLISHMENT OR
SPREAD OF PESTS. THIS LATTER RUBRIC WAS INTENDED TO ADDRESS
CONCERNS OF INVASIVE SPECIES "CROWDING OUT" NATIVE SPECIES
OR OTHERWISE CAUSING DAMAGES, A CONCERN WHICH MAY BE
APPLICABLE WITH RESPECT TO SOME LIVING MODIFIED ORGANISMS.
ALTHOUGH THE SPS AGREEMENT REQUIRES THE TRADE-RESTRICTING
MEASURES ARE BASED ON SCIENTIFIC EVIDENCE, AND IN PARTICULAR
ON A RISK ASSESSMENT, GOVERNMENTS ARE PERMITTED TO TAKE
PROVISIONAL MEASURES IN CASES WHERE THERE IS INSUFFICIENT
SCIENTIFIC EVIDENCE.

THE SPS AGREEMENT ENCOURAGES GOVERNMENTS TO BASE THEIR
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PAGE 01 ROME 00395 02 OF 04 010831Z
ACTION EB-00
INFO LOG-00 AGRE-00 AID-00 EAP-00 EUR-00 UTED-00 TEDE-00
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P 311616Z JAN 03
FM AMEMBASSY ROME
TO SECSTATE WASHDC PRIORITY 7940
INFO EU MEMBER STATES COLLECTIVE
AMEMBASSY OTTAWA
AMEMBASSY BERN
USDA FAS WASHDC 2486
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USMISSION GENEVA
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UNCLAS SECTION 02 OF 04 ROME 000395

SIPDIS

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PAGE 02 ROME 00395 02 OF 04 010831Z
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E.O. 12958: N/A
SUBJECT: [E](#)[A](#)[I](#)[D](#) [E](#)[A](#)[G](#)[R](#) [A](#)[O](#)[R](#)[C](#) [P](#)[R](#)[E](#)[F](#) [E](#)[A](#)[G](#)[R](#) [A](#)[O](#)[R](#)[C](#) [P](#)[R](#)[E](#)[F](#) [E](#)[A](#)[G](#)[R](#) [A](#)[O](#)[R](#)[C](#) [P](#)[R](#)[E](#)[F](#) [E](#)[A](#)[G](#)[R](#) [A](#)[O](#)[R](#)[C](#) [P](#)[R](#)[E](#)[F](#) [E](#)[U](#) [W](#)[F](#)[P](#) [U](#)[N](#) [E](#)[U](#)[E](#)[A](#)[I](#)[D](#) [W](#)[F](#)[P](#) [U](#)[N](#) [E](#)[U](#)[E](#)[A](#)[I](#)[D](#) [W](#)[F](#)[P](#) [U](#)[N](#) [E](#)[U](#)[E](#)[A](#)[I](#)[D](#) [W](#)[F](#)[P](#) [U](#)[N](#) [E](#)[U](#)[E](#)[A](#)[I](#)[D](#) [W](#)[F](#)[P](#)
SUBJECT: WTO VIEWS ON BIOTECH ENGINEERED FOOD AID

SANITARY OR PHYTOSANITARY REQUIREMENTS ON THE INTERNATIONAL
STANDARDS AND RECOMMENDATIONS OF THE OFFICE INTERNATIONAL DE
EPIZOOTIES (OIE), FAO/WHO JOINT CODEX ALIMENTARIUS
COMMISSION AND THE FAO INTERNATIONAL PLANT PROTECTION
CONVENTION. BOTH OF THESE LATTER BODIES ARE EXPLICITLY
ADDRESSING THE ISSUE OF GM/BIOTECH PRODUCTS, WITH REGARD TO
POTENTIAL HUMAN HEALTH RISKS AND TO SOME ENVIRONMENTAL
RISKS.

THE TBT AGREEMENT PERMITS GOVERNMENTS TO REQUIRE THAT
IMPORTED PRODUCTS COMPLY WITH MANDATORY TECHNICAL
REGULATIONS WHICH ARE NECESSARY TO FULFILL A LEGITIMATE
OBJECTIVE. PROTECTION OF HUMAN, ANIMAL, PLANT AND
ENVIRONMENTAL HEALTH ARE AMONG THE LEGITIMATE OBJECTIVES FOR
WHICH PRODUCT REQUIREMENTS MAY BE DEVELOPED. SUCH TECHNICAL
REGULATIONS ARE TO BE NO MORE TRADE-RESTRICTIVE THAN
NECESSARY TO FULFILL THE LEGITIMATE OBJECTIVE, TAKING
ACCOUNT OF THE RISKS FROM NON-FULFILLMENT. WHEN A TECHNICAL
REGULATION IS REQUIRED, GOVERNMENTS ARE ENCOURAGED TO MAKE
USE OF RELEVANT INTERNATIONAL STANDARDS, ALTHOUGH THE TBT
AGREEMENT DOES NOT EXPLICITLY IDENTIFY WHICH STANDARDS OR
STANDARD-SETTING BODIES MAY BE RELEVANT.

THE GATT SETS THE BASIC PRINCIPLES FOR INTERNATIONAL TRADE
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PAGE 03 ROME 00395 02 OF 04 010831Z
GOODS, INCLUDING THE PRINCIPLES OF NON-DISCRIMINATION AMONG
SUPPLYING COUNTRIES AND OF THE TREATMENT OF IMPORTED GOODS
NO LESS FAVORABLY THAN SIMILAR DOMESTICALLY-PRODUCED GOODS.
HOWEVER, THE GATT ALSO INCLUDES A GENERAL EXCEPTION THAT
PERMITS GOVERNMENTS TO TAKE MEASURES NECESSARY FOR THE
PROTECTION OF HUMAN, ANIMAL AND PLANT LIFE OR HEALTH AS LONG
AS THESE ARE NOT APPLIED IN A MANNER WHICH WOULD BE A MEANS
OF ARBITRARY OR UNJUSTIFIABLE DISCRIMINATION BETWEEN
COUNTRIES, OR A DISGUISED RESTRICTION ON INTERNATIONAL
TRADE.

THERE HAS BEEN SOME DISCUSSION REGARDING RESTRICTIONS ON THE

TRADE IN GM/BIOTECH PRODUCTS IN THE COMMITTEES WHICH DEAL WITH THE IMPLEMENTATION OF THE SPS AGREEMENT AND THE TBT AGREEMENT. IN THE SPS COMMITTEE, THE DISCUSSIONS HAVE FOCUSED PRIMARILY ON ISSUES RELATING TO THE CONDITIONS FOR APPROVAL OF SALE OR USE OF SPECIFIC GM/BIOTECH PRODUCTS. IN THE TBT COMMITTEE, THE DISCUSSIONS HAVE PRIMARILY CONCERNED LABELING REQUIREMENTS IMPOSED BY VARIOUS GOVERNMENTS. HOWEVER, IN NEITHER COMMITTEE HAS THERE BEEN ANY ATTEMPT TO REACH AGREEMENT ON ISSUES RELATING TO THE TRADE IN GM/BIOTECH PRODUCTS. IN ADDITION, IN THE CONTEXT OF THE ONGOING NEGOTIATIONS IN THE AGRICULTURE SECTOR IN THE UNITED STATES PROPOSED AT AN EARLY STAGE TO DEVELOP NEW DISCIPLINES TO ENSURE THAT PROCESSES COVERING TRADE IN PRODUCTS DEVELOPED THROUGH NEW TECHNOLOGIES ARE TRANSPARENT, PREDICTABLE AND TIMELY, HOWEVER TO DATE THERE HAS BEEN NO DETAILED CONSIDERATION OF THIS PROPOSAL.

FURTHERMORE, TO DATE ONLY ONE SPECIFIC TRADE COMPLAINT HAS BEEN BROUGHT TO THE WTO REGARDING RESTRICTIONS ON THE TRADE
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PAGE 04 ROME 00395 02 OF 04 010831Z
OF GM/BIOTECH PRODUCTS. THIS COMPLAINT WAS BROUGHT BY THAILAND IN SEPTEMBER 2000 WITH RESPECT TO EGYPT'S PROHIBITION OF TUNA FISH CANNED IN SOY OIL FROM THAILAND, ALLEGEDLY ON THE GROUNDS THAT THE OIL MIGHT BE DERIVED FROM GM SOYBEANS. IT APPEARS THAT THE PARTIES FOUND A BILATERAL SOLUTION TO THE COMPLAINT; IN ANY CASE, THAILAND HAS NOT REQUESTED THE ESTABLISHMENT OF A DISPUTE RESOLUTION PANEL TO EXAMINE THE MATTER. THEREFORE, ALTHOUGH THAILAND ALLEGED THAT THE EGYPTIAN BAN WAS IN VIOLATION OF THE SPS AGREEMENT, THERE HAVE BEEN NO LEGAL RULINGS OR JUDGMENTS WITH REGARD TO THE APPLICABILITY OF ANY WTO AGREEMENT TO TRADE IN GM/BIOTECH FOOD PRODUCTS. IF THE WFP WOULD LIKE FURTHER INFORMATION REGARDING THE RELEVANT WTO AGREEMENTS AND CONSIDERATION OF THIS ISSUE WITHIN THE WTO, PLEASE DO NOT HESITATE TO CONTACT MRS. GRETCHEN STANTON (+41 22 739 5086).

LET ME NOW ADDRESS THE FOUR OPTIONS FOR WFP POLICY WHICH YOU IDENTIFIED IN YOUR LETTER.

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PAGE 01 ROME 00395 01 OF 04 010828Z
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INFO	LOG-00	AGRE-00	AID-00	EAP-00	EUR-00	UTED-00	TEDE-00
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P 311616Z JAN 03
FM AMEMBASSY ROME
TO SECSTATE WASHDC PRIORITY 7939
INFO EU MEMBER STATES COLLECTIVE
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USDA FAS WASHDC 2485
USEU BRUSSELS 3089
USMISSION GENEVA
USMISSION USUN NEW YORK
AMEMBASSY TOKYO

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SUBJECT: WTO VIEWS ON BIOTECH ENGINEERED FOOD AID

REF: (02) ROME 5226

SENSITIVE BUT UNCLASSIFIED - PLEASE PROTECT ACCORDINGLY.
1. (SBU) SUMMARY. MISSION HAS BEEN PROVIDED A COPY OF CORRESPONDENCE BETWEEN THE EXECUTIVE DIRECTOR OF THE UN WORLD FOOD PROGRAM (WFP) AND WORLD TRADE ORGANIZATION (WTO) DIRECTOR GENERAL PANITCHPAKDI IN WHICH PANITCHPAKDI IS ASKED TO PROVIDE VIEWS ON THE HOW WFP SHOULD HANDLE BIOTECH ENGINEERED FOOD AID. PANITCHPAKDI CONCLUDES THAT CONTINUATION OF THE CURRENT WFP POLICY (ALLOWING EACH COUNTRY TO DECIDE WHETHER OR NOT TO ACCEPT BIOTECH FOOD) IS THE MOST "PRAGMATIC" OPTION. PANITCHPAKDI DOES NOT SUPPORT THE RECOMMENDATION OF CERTAIN EU WFP EXECUTIVE BOARD MEMBERS (REFTEL) THAT WFP IMPLEMENT "ADVANCE INFORMED AGREEMENT" PRIOR TO ENTRY INTO FORCE OF THE CARTAGENA PROTOCOL. US MISSION STRONGLY SUPPORTS WTO'S "QUIET ADVICE" THAT WFP STICK WITH ITS PRESENT GM-FOOD AID POLICY. END SUMMARY.

FULL TEXT OF LETTER FROM WORLD TRADE ORGANIZATION (WTO) DIRECTOR GENERAL PANITCHPAKDI TO WFP EXECUTIVE DIRECTOR MORRIS DATED JANUARY 23, 2003

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PAGE 03 ROME 00395 01 OF 04 010828Z
12. (SBU) BEGIN TEXT:

THANK YOU FOR YOUR LETTER OF 14 JANUARY SEEKING THE ADVICE OF THE WTO REGARDING HOW WFP SHOULD HANDLE DONATIONS OF GM/BIOTECH FOODS. I APPRECIATE YOUR INTEREST IN OUR VIEWS ON THIS HIGHLY SENSITIVE MATTER.

THE WTO HAS NO AGREEMENTS EXPLICITLY RELATING TO TRADE IN GM/BIOTECH FOODS, NOR HAVE THERE BEEN ANY FORMAL LEGAL

INTERPRETATIONS OR DECISIONS REGARDING THE APPLICATION OF WTO AGREEMENTS TO SUCH TRADE. FURTHERMORE, ALTHOUGH THERE HAS BEEN SOME DISCUSSION REGARDING RESTRICTIONS ON THE TRADE IN GM/BIOTECH FOODS, NO MEETINGS HAVE BEEN HELD UNDER THE AUSPICES OF THE WTO TO DISCUSS THIS MATTER. THEREFORE, MY RESPONSE TO YOU IS SOLELY AS THE HEAD OF THE WTO SECRETARIAT, AND DOES NOT NECESSARILY REFLECT THE VIEWS OF

SIPDIS
OUR MEMBER GOVERNMENTS.

THERE ARE SEVERAL WTO AGREEMENTS WHICH MAY HAVE SOME RELEVANCE FOR TRADE IN GM/BIOTECH FOODS, IN PARTICULAR THE AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES (THE "SPS AGREEMENT"), THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE (THE "TBT AGREEMENT"), AND THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994 (THE "GATT"). THE AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (THE "TRIPS AGREEMENT") MAY APPLY TO THE ISSUE OF PATENT PROTECTION FOR GM/BIOTECH PRODUCTS, BUT IS PROBABLY NOT RELEVANT WITH REGARD TO FOOD AID.

THE SPS AGREEMENT RECOGNIZES THE RIGHT OF ANY WTO MEMBER GOVERNMENT TO RESTRICT TRADE WHEN NECESSARY TO ENSURE THE
UNCLASSIFIED

PAGE 04 ROME 00395 01 OF 04 010828Z
PROTECTION OF HEALTH, SUBJECT TO CERTAIN CONDITIONS. THIS AGREEMENT SPECIFICALLY ADDRESSES THE PROTECTION OF HUMAN AND ANIMAL HEALTH FROM RISKS "ARISING FROM ADDITIVES, CONTAMINANTS, TOXINS OR DISEASE-CAUSING ORGANISMS" IN FOODS, BEVERAGES OR FEEDSTUFFS; THE PROTECTION OF PLANT AND ANIMAL HEALTH FROM PESTS OR DISEASES; AND THE PROTECTION OF THE TERRITORY OF A COUNTRY FROM THE ENTRY, ESTABLISHMENT OR SPREAD OF PESTS. THIS LATTER RUBRIC WAS INTENDED TO ADDRESS CONCERNS OF INVASIVE SPECIES "CROWDING OUT" NATIVE SPECIES OR OTHERWISE CAUSING DAMAGES, A CONCERN WHICH MAY BE APPLICABLE WITH RESPECT TO SOME LIVING MODIFIED ORGANISMS. ALTHOUGH THE SPS AGREEMENT REQUIRES THE TRADE-RESTRICTING MEASURES ARE BASED ON SCIENTIFIC EVIDENCE, AND IN PARTICULAR ON A RISK ASSESSMENT, GOVERNMENTS ARE PERMITTED TO TAKE PROVISIONAL MEASURES IN CASES WHERE THERE IS INSUFFICIENT SCIENTIFIC EVIDENCE.

THE SPS AGREEMENT ENCOURAGES GOVERNMENTS TO BASE THEIR
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